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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY/DOCKET NO.	CONFIRMATION NO.
10/074,961	02/13/2002	Masaru Sakuma	AMANO A275-DIV	8864

7590 10/15/2003

Norman P. Soloway
HAYES SOLOWAY P.C.
130 W. Cushing Street
Tucson, AZ 85701

EXAMINER

BEATTY, ROBERT B

ART UNIT	PAPER NUMBER
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2852

DATE MAILED: 10/15/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

10/074,961

Applicant(s)

SAKUMA ET AL.

Examiner

Robert Beatty

Art Unit

2852

--Th MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 19 September 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ they raise the issue of new matter (see Note below);
- (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☒ affidavit, b) ☐ exhibit, or c) ☐ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☐ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:


Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: _____.

Claim(s) withdrawn from consideration: _____.

8. ☐ The proposed drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☐ Other: _____


Robert Beatty
Primary Examiner
Art Unit: 2852

Continuation of 5. does NOT place the application in condition for allowance because: the inventor's have sent in an affidavit that compares the fatigue strength of a first thin sleeved hollow metal structure having a thickness of 0.06 mm and an outer diameter of 60 mm formed by spinning working and a second thin sleeved hollow metal structure having the same thickness and diameter but formed from electroplating. From the comparison, the electroplated sleeve broke after about 100,000 loading cycles and the spinning worked sleeve failed to break even after 1,000,000. However, this affidavit is not sufficient to overcome the rejection because the claim calls for a Vicker's hardness and it is not seen that applicant's fatigue stress is comparable to the Vicker's hardness of the material. In addition, the applicant's were silent as to the material used for the tests which the examiner believes would effect the Vicker's hardness and/or the fatigue stress of the applicant's tests. Finally,, the affidavit has been executed by the inventors of the instant invention which is less persuasive than from a disinterested party.